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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,025	12/11/2003	Houston Jagers	12152/003	2359

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EXAMINER
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PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,025	JAGGERS, HOUSTON	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 6-30-04 and this action is final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, 6, 8, 10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,474,745 to Lewis.

Referring to claim 1, 3-4, 6 and 8, Lewis discloses a minnow bucket comprising, a bucket base – at 10,29, an automatic dispensing device – at 17-19 and 21-28, positioned inside the bucket base – see for example figure 1, wherein the automatic dispensing device comprises a minnow tray – at 23-25, connected with a minnow tray handle – at 19, a dispenser chute – at 32-42, located on a side of the bucket base extending in a downward direction a predetermined distance in relation to the bucket base – see for example figure 1, a lid – at 12-13, connected with the bucket base – see figure 1, having a first opening – proximate 15, located on an upper surface

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of the lid and a second opening – proximate 13, located on a respective side of the lid, wherein the minnow tray handle – at 19, extends through the first opening – see figure 3, and the second opening is aligned on a vertical axis in relation to the dispenser chute and the minnow tray opening of the minnow tray – see for example figures 1-3. Lewis further discloses the minnow tray – at 23-25 is formed having a concave shape with a minnow tray opening – see for example figures 3 and 5. Lewis further discloses the minnow tray includes a plurality of apertures – proximate 23-25, that allows water to pass through the minnow tray and back into the bucket base – see for example figures 1-5. Lewis further discloses the bucket base includes at least one guide rail – at 20, that fits within at least one guide slot – at 21-22, of the automatic dispensing device – see for example figures 1-5.

Referring to claim 10, Lewis discloses the lid – at 12-13, includes a minnow return – at 13 – see for example figures 1-5.

Referring to claims 13-14, Lewis discloses a minnow bucket comprising, a bucket base – at 10,29, an automatic dispensing device – at 17-19 and 21-28, positioned inside the bucket base – see for example figure 1, wherein the automatic dispensing device comprises a minnow tray – at 23-25, connected with a minnow tray handle – at 19, a dispenser chute – at 32-42, located on a side of the bucket base extending in a downward direction a predetermined distance in relation to the bucket base – see for example figure 1, a lid – at 12-13, connected with the bucket base – see figure 1, having a first opening – proximate 15, located on an upper surface of the lid and a second opening – proximate 13, located on a respective side of the lid, wherein the minnow tray handle – at 19, extends through the first opening – see figure 3, and the second opening is in relation to the to the dispenser chute aligned on a vertical axis in relation to the minnow tray

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opening of the minnow tray – see for example figures 1-3. Lewis further discloses the minnow tray – at 23-25 is formed having a concave shape with a minnow tray opening – see for example figures 3 and 5. Lewis further discloses the minnow tray includes a plurality of apertures – proximate 23-25, that allows water to pass through the minnow tray and back into the bucket base – see for example figures 1-5. Lewis further discloses the bucket base includes plurality of guide rails – at 21-22, and a plurality of guide slots – inside the channels formed by 21-22 as seen in figures 1-5, of the automatic dispensing device – see for example figures 1-5.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 11 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis as applied to claims 1, 8 and 13 above, and further in view of U.S. Patent No. 5,802,760 to Campbell.

Referring to claims 7 and 11, Lewis does not disclose an air pump connected to the lid. Campbell does disclose an air pump – at 29 connected to the lid – at 25. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Lewis and add the pump of Campbell, so as to maintain the minnows for longer periods of time inside the bucket.

Referring to claims 18-19, Lewis does not disclose a means for aerating the means for holding a plurality of minnows and the means for aerating an air pump and air diffuser. Campbell does disclose a means for aerating comprising a pump – at 29 and air diffuser – at 37 – see figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Lewis and add the pump of Campbell, so as to maintain the minnows for longer periods of time inside the bucket.

### *Response to Arguments*

4. Applicant's arguments with respect to claims 1, 3-4, 6-8, 10-11, 13-14 and 18-19, have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to minnow buckets/dispensing devices in general:

U.S. Pat. No. 3,372,784 to Ross et al. – shows minnow dispenser

U.S. Pat. No. 4,037,349 to Key – shows aerated minnow bucket

U.S. Pat. No. 4,226,338 to Schweim – shows minnow dispenser

U.S. Pat. No. 5,228,231 to Larson – shows minnow bucket/dispenser

U.S. Pat. No. 5,549,227 to Klotz – shows minnow dispenser

U.S. Pat. No. 6,032,404 to Cincibus – shows minnow bucket with chute

DE Pat. No. 30366 – shows minnow dispenser with chute

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**